

**BUSINESS REPORT**

**MONTANA SENATE  
61st LEGISLATURE - REGULAR SESSION**

**SENATE JUDICIARY COMMITTEE**

**Date:** Thursday, March 26, 2009  
**Place:** Capitol

**Time:** 9:00 am  
**Room:** 303

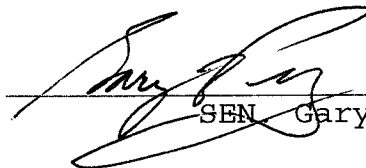
**BILLS and RESOLUTIONS HEARD:**

HB 216, HB 477, HB 504

**EXECUTIVE ACTION TAKEN:**

HB 477-Be Concurred In, HB 504-Be Concurred In, HB 95-Be Concurred In As Amended, HB 216-Tabled

**COMMENTS:**

  
SEN Gary L. Perry, Chairman

**MONTANA STATE SENATE**  
**Roll Call**  
**JUDICIARY COMMITTEE**

DATE: 3/26/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR GARY PERRY, CHAIRMAN	/	
SENATOR JIM SHOCKLEY, VICE CHAIRMAN	/	
SENATOR AUBYN CURTISS	/	
SENATOR JOHN ESP	/	
SENATOR GREG HINKLE	/	
SENATOR LARRY JENT	/	
SENATOR CAROL JUNEAU	/	
SENATOR CLIFF LARSEN	/	
SENATOR JESSE LASLOVICH	/	
SENATOR DANIEL MCGEE	.	/
SENATOR LYNDA MOSS	/	
SENATOR TERRY MURPHY	/	



## SENATE STANDING COMMITTEE REPORT

March 26, 2009

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 477** (third reading copy -- blue) be concurred in.

Signed: \_\_\_\_\_

*Senator Gary L. Perry, Chair*

To be carried by Senator Cliff Larsen

- END -

**Committee Vote:**

**Yes 12, No 0**

Fiscal Note Required \_\_\_\_

HB0477001SC06471.sdr

DR



## SENATE STANDING COMMITTEE REPORT

March 26, 2009

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 504** (third reading copy -- blue) **be concurred in.**

Signed: \_\_\_\_\_

*Senator Gary L. Perry, Chair*

To be carried by Senator Lynda Moss

- END -

**Committee Vote:**

**Yes 10, No 2**

Fiscal Note Required ☐

HB0504001SC03870.sdr

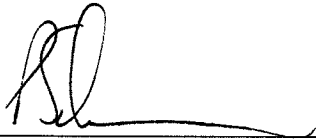
OK

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**COMMITTEE FILE COPY**

**TABLED BILL**

The **SENATE JUDICIARY COMMITTEE** TABLED ~~HB~~ **216**, by motion, on **Thursday, March 26, 2009**.



(For the Committee)



(Secretary of the Senate)

11:35 3/26

(Time)

(Date)

March 26, 2009

Pamela E. Schindler, Secretary

Phone: 444-4891

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## SENATE STANDING COMMITTEE REPORT

March 26, 2009

Page 1 of 3

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 95** (third reading copy -- blue) be **concurred in as amended**.

Signed:

  
Senator Gary L. Perry, Chair

To be carried by Senator Jim Shockley

**And, that such amendments read:**

1. Title, page 1, line 7.

**Following:** "SECTIONS"

**Insert:** "40-5-303,"

2. Page 1, line 11.

**Insert:** "Section 1. Section 40-5-303, MCA, is amended to read:

**"40-5-303. Petition for income deduction -- who may initiate.** (1) If an obligor is exempted from immediate income withholding under 40-5-315 or is not otherwise subject to an income-withholding order, the obligor's income may be withheld for the payment of child support if the obligor becomes delinquent in the payment of support, a person or entity referred to in subsection (2) notifies the obligor that income withholding will be initiated if the delinquent amount is not paid within 8 days of the date of the notice, and the obligor does not pay the delinquent amount within that time. Notification that income withholding will be initiated if a delinquency is not paid within 8 days of the date of the notice is not necessary if such a notice was given for a prior delinquency and the prior delinquency in fact existed. This notice is different from the notice required by 40-5-305.

(2) Income withholding for the payment of child support may be initiated by:

(a) the person named as the recipient of the child support payments in the child support order;

**Committee Vote:**

**Yes 9, No 3**

Fiscal Note Required ☐

(b) the child or the guardian of the child named in the child support order; or

(c) the department of public health and human services; or

(d) the state of Montana, including the department of corrections and respective county attorneys, for the purpose of enforcing contribution orders under 41-5-1525. These contribution orders are considered to be child support orders for purposes of enforcement under this chapter.

(3) (a) At the request of an initiating party who has determined that an obligor is delinquent, the district court shall issue an order for income deductions for immediate service upon the obligor's payor or payors. The order is limited to current support unless modified to include arrears as provided in 40-5-308.

(b) At the same time an income deduction order is issued, the requesting party shall notify the obligor as provided in 40-5-305 that income deductions have been initiated.

(4) Deductions under this section for current support may be terminated only if:

(a) the district court determines after a hearing that the obligor was not delinquent when the deduction order was issued;

(b) the obligation to pay support has terminated and all delinquencies are paid in full; or

(c) the department of public health and human services has superseded the deduction order under authority of Title 40, chapter 5, part 4.

(5) As used in this part, the following definitions apply:

(a) "Employer" includes a payor.

(b) (i) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability benefits, payments under a pension or retirement program, interest and earnings, and wages.

(ii) Income does not include:

(A) an amount, other than creditor claims, required by law to be withheld, including federal, state, and local taxes and social security; or

(B) an amount exempted from judgment, execution, or attachment by federal or state law.

(c) "Payor" means any entity that pays income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, or state agency or an agent of any one of them, subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure."

**Renumber:** subsequent sections

3. Page 8, lines 4 through line 18.

**Strike:** subsection (7) through subsection (9) in their entirety.

**MONTANA STATE SENATE**  
**Roll Call Vote**  
**JUDICIARY COMMITTEE**

DATE 3/26/09 BILL NO. HB216 MOTION NO. 1  
MOTION: \_\_\_\_\_

*ReConcurred In*

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR DANIEL MCGEE		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
SENATOR JESSE LASLOVICH	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
SENATOR AUBYN CURTISS		<input checked="" type="checkbox"/>	
SENATOR LARRY JENT	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
SENATOR TERRY MURPHY		<input checked="" type="checkbox"/>	
SENATOR LYNDA MOSS	<input checked="" type="checkbox"/>		
SENATOR JOHN ESP		<input checked="" type="checkbox"/>	
SENATOR CLIFF LARSEN	<input checked="" type="checkbox"/>		
SENATOR CAROL JUNEAU		<input checked="" type="checkbox"/>	
SENATOR GREG HINKLE		<input checked="" type="checkbox"/>	
SENATOR JIM SHOCKLEY, VICE CHAIR	<input checked="" type="checkbox"/>		
SENATOR GARY PERRY, CHAIRMAN		<input checked="" type="checkbox"/>	

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**MONTANA STATE SENATE**  
**Roll Call Vote**  
**JUDICIARY COMMITTEE**

DATE 3/26/09 BILL NO H 895 MOTION NO. 4  
MOTION: \_\_\_\_\_

*Reconciled in Amend.*

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR DANIEL MCGEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SENATOR JESSE LASLOVICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SENATOR AUBYN CURTISS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR LARRY JENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SENATOR TERRY MURPHY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR LYNDA MOSS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR JOHN ESP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR CLIFF LARSEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR CAROL JUNEAU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR GREG HINKLE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR JIM SHOCKLEY, VICE CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR GARY PERRY, CHAIRMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9/3

# AUTHORIZED SENATE COMMITTEE PROXY

I request to be excused from Judiciary Committee  
because of other commitments. I desire to leave my proxy vote with:

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

BILL/AMENDMENT

AYE NO

3/3/09 3/26/09	HB 121	X	
	HB 477 concurs	✓	


Sen. Paul J. Amodeo  
(Signature)

Date 2/20/09

# AUTHORIZED SENATE COMMITTEE PROXY

I request to be excused from Judiciary Committee  
because of other commitments. I desire to leave my proxy vote with:

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT                      AYE      NO

2/16/09	SB 364 TABLE	✓	
3/26/09	SB 400 DOPASS	✓	
	HB 477 concurs	✓	

BILL/AMENDMENT                      AYE      NO


Sen.

Lynne Murr  
(Signature)

Date 1-5-09

**AUTHORIZED  
SENATE COMMITTEE PROXY**

I request to be excused from Senate Judiciary Committee  
because of other commitments. I desire to leave my proxy vote with:

Sen Lasovich

Indicate Bill number and your vote Aye or No. If there are amendments,  
list them by name and number under the bill and indicate a separate vote  
for each amendment.

BILL/AMENDMENT

AYE NO

BILL/AMENDMENT

AYE NO

3/26/09	HB 477 concurs	✓	
	HB 504 concurs	✓	
	HB 216 concurs	✓	
	HB 95 amend	✓	
	HB 95 concurs	✓	
	amended		


Sen. \_\_\_\_\_

(Signature)

Date \_\_\_\_\_

(Sen. first)

# AUTHORIZED SENATE COMMITTEE PROXY

I request to be excused from Judiciary Committee  
because of other commitments. I desire to leave my proxy vote with:

Sen Perry

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE

NO

BILL/AMENDMENT

AYE

NO

3/25/09	HB 591 amend	✓	
	HB 591 <del>amended</del> as	✓	
	amended		
	HB 301 amend		✓
3/26/09	HB 477 concus	✓	
	HB 504 concus	✓	
	HB 216 concus		✓
	HB 95 amend	✓	
	HB 95 concus	✓	
	as amend.		


Sen. \_\_\_\_\_

M Lee  
(Signature)

Date \_\_\_\_\_

1/15/09

# AUTHORIZED SENATE COMMITTEE PROXY

I request to be excused from Judiciary Committee  
because of other commitments. I desire to leave my proxy vote with:

Sen. Moss

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE

NO

BILL/AMENDMENT

AYE

NO

3/26/09

<del>3/13/09</del>		
HB 477 concurs	✓	
HB 504 concurs	✓	
HB 216 concurs	✓	
HB 95 amend	✓	
HB 95 concurs as amend.	✓	


Sen. Calvin

(Signature)

Date \_\_\_\_\_

**MONTANA STATE SENATE**  
**Visitors Register**

Judiciary Committee

Date 3/26/09

Bill No. HB-504 Sponsor(s) Rep. M. Reinhart

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<u>Bob Breuninger</u>	<u>Disability Rights MT</u>	<input checked="" type="checkbox"/>		
<u>Ann Brody</u>	<u>Gov office</u>	<input checked="" type="checkbox"/>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**MONTANA STATE SENATE**  
**Visitors Register**

Judiciary Committee

Date 3/26/09

Bill No. HB-216 Sponsor(s) Rep. M. Menahan

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<del>Paul Harris</del>	DO Justice	X		X
Jim Smith	County Atty At	X		
PAM Burke	DOC			X
Jane Hammen	MTEA / AAA	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.



**MONTANA STATE SENATE**  
**Visitors Register**

Judiciary Committee

Date 3/26/09

Bill No. HB-477 Sponsor(s) Rep. M. Menahan

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<u>Claudia Clifford</u>	<u>AARP MT</u>	<input checked="" type="checkbox"/>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.